IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

OP.No. 1352 of 2002(J)

PETITIONER:

M.C. VALSALAKUMARI, EXTENSION OFFICER (WOMEN'S WELFARE), BLOCK DEVELOPMENT OFFICE, PAZHAYANNUR, THRISSUR DISTRICT.

BY ADV. SRI.M.V.BOSE
SRI.CHERIAN VARGHESE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE

RESPONDENTS:

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1. COMMISSIONER OF RURAL DEVELOPMENT, L.M.S. COMPOUND, THIRUVANANTHAPURAM.

2. T. SOUMINI, W/O. M. PADMANABHAN, 'SOUPARNIKA', P.O. KAKALLUR-673 612.

3. K. MANIKUTTY, W/O. M.C. SEKHARAN, "ARADHANA", P.O. MUTTUNGAL WEST, BADAGARA-672 106.

4. R. VALSALA, EXTENSION OFFICER, (WOMEN'S WELFARE) COMMUNITY DEVELOPMENT BLOCK, KODUVALLY, KOZHIKODE DISTRICT.

BY GOVERNMENT PLEADER SRI.K.PRADEEP

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON I.A. NO.2206/2006 IN OP. NO.1352/2002

DISMISSED

14.02.2007 **SD/- KURIAN JOSEPH, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE RELEVANT EXTRACT FROM RANK LIST DT.20.7.1977 ISSUED BY THE PUBLIC SERVICE COMMISSION.

EXT.P2:- COPY OF THE NOTIFICATION NO.G.O.(P) 88/77/85, DT.30.TH JUNE 1977.

EXT.P3:- COPY OF THE RELEVANT EXTRACT OF ENTRIES NOTIFIED UNDER PART IB INDICATING THE RESPECTIVE POSITION OF THE CANDIDATES ON COMMUNAL ROTATION BY PUBLIC SERVICE COMMISSION.

E.XT.P4:- COPY OF THE G.O.(RT) 416/78/DD. DT.27.2.1978.

EXT.P5:- COPY OF THE RELEVANT EXTRACT OF THE PROVISIONAL SENIORITY LIST PUBLISHED AS PER ORDER DT.26.9.85 OF LADY VILLAGE EXTENSION OFFICERS (GRAMASEVAKAS) OF THE COMMUNITY DEVELOPMENT DEPARTMENT AS ON 1.8.81.

EXT.P6:- COPY OF THE JUDGMENT DT.31.8.2000 IN WA. NO.858 OF 1995.

EXT.P7:- COPY OF THE ORDER DT.6.7.94 OF THE 1ST RESPONDENT.

EXT.P8:- COPY OF THE ORDER DT.5.1.96 OF THE SENIOR ADMINISTRATIVE OFFICER, COMMISSIONERATE OF RURAL DEVELOPMENT, THIRUVANANTHAPURAM.

EXT.P9:- COPY OF THE ORDER DT.28.11.01 OF THE 1ST RESPONDENT.

EXT.P10:- COPY OF THE OBJECTION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DT.12.12.01.

EXT.P11:- COPY OF THE FROM GOVERNMENT TO COMMISSIONER FOR RURAL DEVELOPMENT, DT.7.6.04.

EXT.P12:- COPY OF THE ORDER DT.14.10.05 OF THE COMMISSIONER FOR RURAL DEVELOPMENT , THIRUVANANTHAPURAM.

EXT.P13:- COPY OF THE CIRCULAR DT.12.1.06 ISSUED FROM THE SENIOR ADMINISTRATIVE OFFICER, RURAL DEVELOPMENT COMMISSIONERATE.

EXT.14:- COPY OF THE ORDER DT.28.1.06 OF THE COMMISSIONER FOR RURAL DEVELOPMENT, THIRUVANANTHAPURAM.

/TRUE COPY/

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KURIAN JOSEPH, J.

O.P.No.1352 of 2002

Dated 14th February, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayers :-

> (i) "To call for the entire records leading upto Ext.P9 and to quash the alteration of the rank of the petitioner as 572 from 519 by the issuance of a writ of certiorari or any other writ, direction or order.
>
> (ii) To issue a writ in the nature of mandamus compelling the respondents to retain the petitioner as Extension Officer (Women's Welfare) and afford her further promotion on the basis of her advice of the Public Service Commission."

It is the main contention of the petitioner that being a member of the Scheduled Caste, she is exempted from undergoing the training itself, in view of Rules 13 to 13BB of the Kerala State and Subordinate Service Rules. Reliance is placed on the recent Bench decision of this Court in **Somarajan N. and another v. State of Kerala and others** (2007(1) ILR 266), wherein it has been held as follows :-

> "Appellants challenge the finding that test exemption in Rule 13AA to members of Scheduled Castes/Scheduled Tribes is applicable to the special tests prescribed in the Service Rules. As per Special Rules, no person shall be eligible for appointment as Superintendent of Survey by appointment by transfer, unless he possess the required test qualification like Head Surveyors test, Account test (Lower) and Revenue test or other equivalent

> test. It was contended that these are special tests and exemptions granted in Rules 13AA, 13AB and 13B are applicable only to departmental tests and not to tests which are made essential for a particular post. It was further contended that Government is not entitled to extend a temporary exemption to a permanent affair. State supported the stand of appellants. Respondents/petitioners in writ petition supported the impugned judgment stating that the exemption granted under Rules 13A, 13AA and 13AB take in all qualifications other than course/training, as is evident from Rule 13BB. Division Bench repelled contentions of appellant and upheld the impugned judgment."

There will be a direction to the first respondent to look into Ext.P10 submitted by the petitioner regarding her claim for exemption from passing the above test, with notice to the petitioner and respondents 2 to 4 and take appropriate action in the light of the above judgment, within two months from the date of production of a copy of the judgment.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

O.P.No.1352 of 2002 (J)

J U D G M E N T

Dated 14th February, 2007.